



California Takes Action in Anticipation of New Administration

In a state Hillary Clinton won by more than four million votes, the election of Donald Trump prompted strong statements from legislative leaders and Gov. Brown. Assembly Speaker Anthony Rendon (D-Lake-wood) and Senate President Kevin De Leon (D-Los Angeles) issued a joint statement expressing that California must remain “a refuge of justice and opportunity for people of all walks...” and pledged that “California will defend its people and our progress.” In a press release Gov. Brown said “we will protect the precious rights of our people and continue to confront the existential threat of our time – devastating climate change.”

November and December are normally quiet months in the Capitol, but advocates and lawmakers have already begun mobilizing. FCLCA signed on to a letter along with over 30 public interest groups representing a broad range of interests to urge Gov. Brown to nominate a new attorney general (replacing Kamala Harris who won election to the U.S. Senate) who will “aggressively defend and enforce California’s laws and challenge efforts to restrict California’s ability to craft forward-looking policy.” Brown nominated Congressman Xavier Becerra (D-Los Angeles) who afterwards told the press “if you want to take on a forward-leaning



state that is prepared to defend its rights and interests, then come at us.”

On December 5th, the Legislature held its swearing-in session and immediately went to work. Both houses passed resolutions with supermajorities (**HR 4**, by Anthony Rendon and **SR 7**, by Kevin de Leon) imploring the President-elect not to pursue mass deportation strategies and to continue President Obama’s Deferred Action for Childhood Arrivals (DACA) policy. Lawmakers condemned “in the strongest terms, bigoted and racist descriptions, or misinformed descriptions of the immigrant community that serve to only foment hatred and violence.” Resolutions are

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“The Friends Committee on Legislation of California (FCLCA), guided by Quaker values, advocates for California state laws that are just, compassionate and respectful of the inherent worth of every person.”

FCLCA Perspective *(continued from page 1)*

advisory and do not have the force of law. Lawmakers also introduced five bills with teeth. (See sidebar on page 3.)

This is a time of much uncertainty about which policies the new administration will pursue given that the President-elect appears to be softening some of his positions from those of his campaign rhetoric. Conversely, Trump’s selections for cabinet appointments suggest an aggressive effort to roll back many of the gains made in recent years. People who are undocumented, Muslim or low-income appear particularly vulnerable given the incoming administration’s political stances. In light of the President-elect’s nomination of Alabama Senator Jeff Sessions for attorney general and his opportunity to nominate up to three U.S. Supreme Court justices, civil rights, civil liberties, women’s reproductive rights and the rights of LGBT persons are at risk.

President-elect Trump indicated that he plans to immediately deport or incarcerate up to three million undocumented immigrants with criminal records. On the campaign trail, Trump also pledged to undo DACA, which allows undocumented residents who arrived as children to receive two-years of renewable deferred deportation and eligibility for a work permit. So far, over 700,000 people who qualified have been able to come out of the shadows. When asked on the campaign trail, Trump also indicated support for requiring Muslims to register.

Trump campaigned on the pledge to overturn the Affordable Care Act (ACA). California enthusiastically embraced the ACA and enrolled 3.5 million Californians – mostly childless adults – in Medi-Cal. Another 1.3 million residents now receive federal subsidies to purchase private health insurance through Covered California. With Trump’s selection of Congressman Tom Price (R-Ga.) as Secretary of Health and Human Services, the administration is poised to repeal the ACA through the budget reconciliation process, which requires only 51 votes in the Senate and cannot be subjected to a filibuster. Repealing the ACA and cutting both Medicaid and Medicare has also been a priority of House Speaker Paul Ryan (R-Wi). California receives \$16 billion in federal funds annually for the Medicaid expansion (known as Medi-Cal) and \$5 billion annually for subsidized care.

The state’s economy could also suffer if the Trump administration engages U.S. trading partners in a trade war. California’s economy relies heavily on exports, and both Mexico and China, the countries cited most often by President-elect Trump, are among the largest purchasers of California exports. A significant decline in the state’s exports along with cuts in safety net spending by the federal government, could erase recent declines in California’s poverty rate. Thanks to an improving economy and some well-targeted public investments, the state’s overall poverty rate declined to 15.3 percent, down from a peak

FIVE IMPORTANT BILLS

December has been an unusually busy time in the State Capitol. Five important bills concerning the fair treatment of immigrants and religious freedom have been introduced that will be taken up after the Legislature reconvenes in January.

FCLCA is supporting **SB 54**, the California Values Act, by Kevin de Leon, to prohibit state and local law enforcement agencies from arresting, investigating, detaining or reporting people for immigration purposes or to assist in investigating or the enforcement of any federal program requiring the registration of an individual on the basis of race, gender, sexual orientation, religion, or national or ethnic orientation. State agencies will be required to review their confidentiality policies and to identify any changes necessary to ensure that information collected from individuals is limited to that which is necessary to perform agency duties and is not disclosed for any other purpose. SB 54 also repeals a provision in state law that requires law enforcement agencies to notify Immigration and Customs Enforcement when there is reason to believe that a person arrested for controlled substances may not be a U.S. citizen. FCLCA supports **SB 31**, by Ricardo Lara (D-Bell Gardens), which prohibits state agencies from disclosing to the federal government information regarding a person's religious affiliation when the information is sought for compiling a database of individuals based solely on religious affiliation.

Because deportation proceedings are civil rather than criminal, detainees are not provided with legal representation at the government's expense. FCLCA is supporting **SB 6**, by Ben Hueso (D-San Diego), which appropriates funds for nonprofits to provide legal services for detained individuals facing deportation. FCLCA supports **AB 3**, by Rob Bonta (D-Oakland), which would appropriate funds to provide training and technical assistance to public defenders in order to enable them to better advise clients on the immigration consequences of criminal convictions. With such advice, undocumented defendants are often able to plead to a charge that has fewer immigration consequences. FCLCA is considering support of **SB 30**, by Ricardo Lara, which requires any federally funded infrastructure project along California's southern border that exceeds a cost of \$1 billion to first be approved by California voters in a general election. [FCLCA](#)

of 17 percent following the Great Recession. Child poverty remains even higher at 21.2 percent, down from a peak of 23.8 percent. While the recent declines are welcome news, poverty rates are not nearly back to where they were prior to the Great Recession of 2008.

Despite overwhelming scientific consensus, the President-elect has said that "nobody really knows" if climate change is real. He is considering pulling out of the Paris Agreement to reduce greenhouse gas emissions. On the campaign trail, Trump said he would approve the Keystone Pipeline and open up federally protected lands to oil and gas exploration. California may have to go it alone in terms of advancing policies and technology to mitigate global warming.

Fortunately, California's economy is performing relatively well (the state continues to generate wealth, although far too many Californians don't share in the wealth). Economists, however, warn that the state is overdue for a recession. Voters recently approved Proposition 55 to extend higher income tax rates on the wealthiest Californians and Proposition 56 to increase tobacco taxes. The state has a healthy budget reserve approaching \$11 billion dollars and state debt has declined. All of these factors should enable the state to weather a mild recession, but could not begin to make up for the potential loss of federal dollars for insuring our state's lower-income residents.

When the Legislature reconvenes in January, Democrats will have supermajorities in both houses. A supermajority enables Democrats to raise taxes without any Republican votes, though obtaining a two-thirds vote on controversial measures like tax increases is never guaranteed. Supermajorities could help Democrats pass bills with urgency clauses. This could enable the Legislature, with the governor's support, to enact bills that take effect immediately in order to respond quickly to federal actions harmful to Californians. If the supermajority votes on HR 4 and SR 7 are any indication, advocates and the Legislature are well-poised to push back. [FCLCA](#)

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The Year in Review: Legislative Highlights 2016

Overall, 2016 was a year of progress. Some huge gains were made, in addition to some setbacks at the ballot (see page 6) in all three of FCLCA's program areas: criminal justice reform, economic justice and environmental justice. FCLCA and its fellow co-sponsors sent three bills to Gov. Brown, who signed two of them into law. What follows is a look back at the year.

Criminal Justice

AB 2590, the Restorative Justice Act of California, by Assembly Member Shirley Weber (D-San Diego), deletes language in the penal code stating that the purpose of incarceration is punishment and replaces it with language stating that the purpose of sentencing is public safety achieved through punishment, rehabilitation and restorative justice. This legislation is the culmination of efforts by an interfaith coalition assembled in Sacramento in the summer of 2015 for the purpose of advancing restorative justice.

The original version of AB 2590 made no reference to punishment as a means to achieving public safety and instead included accountability along with rehabilitation and restorative justice. Not surprisingly, the bill drew some intense opposition from lawmakers on the Assembly Floor. Opponents characterized restorative justice as leniency and noted that some offenses are so heinous that victims could never be fully restored. It was argued that AB 2590 would encourage judges to be lenient towards persons convicted of serious crimes. While AB 2590 should encourage judges to make more use of restorative justice for juvenile and probation-eligible offenses, the penal code specifies a range of sentences for various offenses that are not going away with the enactment of AB 2590. Though it is undeniable that some crimes are so serious that full restoration may not be possible, victims of serious crimes report a high degree of satisfaction from their voluntary participation in restorative justice programs, which are often conducted in custodial settings and, like other rehabilitation programs,

do not take the place of a prison sentence for serious offenses.

In the Senate, opposition to AB 2590 intensified as it often does in the second house when bills have momentum. It became clear that the California District Attorneys Association and other rank and file law enforcement organizations were strongly wedded to the inclusion of punishment as the purpose of sentencing.

After careful consideration, the sponsors reluctantly agreed that it would be better to take an amendment to AB 2590 that replaced accountability with punishment. Punishment would no longer be a goal in and of itself. Instead it would be means to an end, along with rehabilitation and restorative justice. The amendment also reduced the risk of a veto by the governor.

While AB 2590 was wending its way through the Legislature, Sen. Loni Hancock (D-Berkeley) was carrying legislation (SB 1324) that added rehabilitation to the purpose of incarceration and required the California Department of Corrections and Rehabilitation (CDCR) to adopt a mission statement that reflected the goal of rehabilitation. Sen. Hancock graciously decided to drop her bill and become principal co-author of AB 2590. Sen. Hancock's mission statement was also incorporated into AB 2590. In addition to stating that the purpose of sentencing is public safety and introducing restorative justice into the penal code, CDCR is now required to adopt a mission statement that includes restorative justice. The Restorative Justice Act was signed into law by Gov. Brown.

FCLCA and the American Friends Service Committee co-sponsored **SB 759**. This bipartisan bill, by Senators Joel Anderson (R-Alpine) and Loni Hancock, restores eligibility for prisoners housed in solitary confinement to earn credits towards their prison sentences for good behavior and for completing rehabilitation programs. Credit earning for prisoners in solitary confinement

was expressly prohibited by obscure language contained in a 2010 budget trailer bill. Since then, FCLCA has lobbied to remove the prohibition as credit earning is universally recognized by corrections experts as a way to promote good behavior and rehabilitation in custodial settings. To our chagrin, while there was agreement among many legislators for restoring credit earning, the issue was so contentious that no one was willing introduce a legislative fix. This finally changed in 2014, when Tom Ammiano (D-San Francisco) amended **AB 1652** to delete the prohibition on credit earning. Unfortunately, this occurred very late in the legislative session and the bill failed on the Assembly Floor.

In 2015, FCLCA and AFSC worked with Sens. Anderson and Hancock to include the elimination of the prohibition in SB 759, which in its original version required CDCR to collect specified data on solitary confinement. The data collection was amended out of the bill by the Senate Appropriations Committee. Fortunately, Sen. Anderson stayed with the bill and made a passionate presentation on the Senate floor despite vocal opposition from fellow members of the Republican caucus. Anderson, who serves as Vice-Chair of the Senate Public Safety Committee chaired by Sen. Hancock, could never be accused of being soft on crime. However, he also credits his service with Hancock as making him a believer in the importance of rehabilitation. SB 759 received five Republican votes on the Senate Floor.

This summer, when it was taken up on the Assembly Floor, SB 759 initially fell five votes short. Assembly Member Melissa Melendez (R-Lake Elsinore), who serves as Vice Chair of the Assembly Public Safety Committee, characterized the bill as being soft on people who have committed serious rules violations in prison. It's important to note that most of them will eventually return to their communities. Good behavior promotes prison safety and participation in rehabilitation programs reduces recidivism and increases public safety.

On the first Assembly floor vote, SB 759 fell five votes short, but Sens. Anderson and Hancock worked the Assembly Floor while FCLCA worked legislative offices to secure the additional votes needed for passage. SB 759 passed the Assembly Floor without a vote to spare and was signed into law by Gov. Brown.

Unfortunately, we did not fare as well with our efforts to secure in-person visitation in local jails. **SB 1157**, by Sen. Holly Mitchell (D-Los Angeles), co-sponsored by FCLCA, the Women's Policy Institute, the Prison Law Office and other organizations, would have required jails that provide video visitation to continue providing in-person visitation.

Since the enactment of Realignment in 2011, counties have assumed responsibility for managing persons convicted of low-level felonies. The goals are twofold: to reduce prison overcrowding as ordered by the federal courts and to reduce recidivism by keeping people convicted of low-level felonies in the community where they have better access to family and community support.

The Legislature has provided over \$2 billion in matching funds to counties for new jail construction in order to help manage their new caseload. In securing these funds for new jail construction, the California State Sheriffs Association has convinced the Legislature that it needs modern jails with programming space since people will now be serving longer sentences (years, and in some cases, decades) under Realignment.

When the Legislature approved funding for new jail construction it was unknown that new jails would replace in-person visitation with video visitation, but that is precisely what is happening. An estimated 18 counties have eliminated or severely restricted, or plan to eliminate or severely restrict, in-person visitation. Vendors who provide video visitation to local jails offer commissions that are paid into the Inmate Welfare Fund, which is controlled by Sheriffs. These commissions are funded by charging family members up to \$1 per minute for a video visit. Visits are conducted through a tiny screen. Often the picture is grainy and subject to transmission lags. Prisoners report a lack of privacy when visits are broadcast from their cells and young children are often confused by the experience. Despite these drawbacks, video visitation could be a useful supplement when in-person visitation is difficult, but it should never be the only option. According to a report by the Prison Policy Initiative, nationwide 74 percent of county jails that have implemented video-visitiation have eliminated in-person visitation.

In response to concerns expressed by the governor's office over the impact on counties that have

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Gains and Losses for Criminal Justice Reform on the November Ballot

Seventeen initiatives crowded the November 2016 ballot, among them several important measures dealing with criminal justice issues.

California voters passed Proposition 66, which claims to speed up executions and rejected Proposition 62, which would have abolished California's death penalty, replacing it with a sentence of life without the possibility of parole. Proposition 66 passed 51 percent to 49 percent, or by 292,000 votes out of nearly 13 million votes cast. Proposition 62 to repeal executions lost with 47 percent of voters in support and 53 percent opposed. A similar repeal effort, Proposition 34 in 2012, failed by a slightly smaller margin, 48 percent to 52 percent.

California has not executed anyone since 2006. It is believed that 18 prisoners on California's death row have fully exhausted their appeals and death penalty proponents hope executions will resume next year. The ACLU immediately filed a lawsuit challenging Proposition 66, claiming that the measure's broad delegation of authority over execution procedures to the California Department of Corrections and Rehabilitation (CDCR) bypasses the Legislature and is therefore unconstitutional.

Despite these setbacks, the long-term prospects for ending capital punishment in California remain strong as nearly half of California voters favor ending executions. A key difference between the 2012 and 2016 campaigns: death penalty proponents spent nearly \$7 million to defeat Proposition 62 and pass Proposition 66 this year compared to only \$392,000 spent against Proposition 34 in 2012.

Some great news: Proposition 57 passed by a wide margin of 64 percent to 36 percent. This measure requires judges rather than prosecutors to determine whether a young person should be charged as an adult, allows prisoners convicted of nonviolent offenses to be considered for parole after serving their base term rather than waiting until they have served time for enhancements and gives CDCR the authority to revamp credit earning for prisoners for good behavior and completion of rehabilitation programs. Since moving to determinate sentencing for most offenses, rehabilitation has taken a back seat in California's prison system. Credit earning allows prisoners to earn time off their sentences and provides an incentive for good behavior and participation in programs that reduce recidivism. [FCLCA](#)

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already eliminated in-person visitation, the author amended SB 1157 to grant those counties five years to comply with the requirement. The bill was vigorously opposed by the California State Sheriffs Association and was vetoed by Gov. Brown over concerns about the mandate placed on counties.

If there is a silver lining, the governor's veto message took note of the negative impact on rehabilitation and on families and requires the Board of State and Community Corrections, which approves plans for new jail construction, to work with stakeholders to address these concerns. Also, the latest round of funding for new jail construction in this year's budget requires counties that use these state funds to provide in-person visitation.

In regard to other bills that FCLCA supported, Gov. Brown signed **SB 1143** by Mark Leno (D-San Francisco), which places restrictions on the use of solitary confinement for juveniles housed in detention

facilities and **SB 443**, by Holly Mitchell, which reins in "policing for profit" by requiring a conviction before a defendant's assets can be seized. Gov. Brown vetoed **SB 1052** by Ricardo Lara (D-Bell Gardens), which requires youth under the age of 18 to consult with an attorney before waiving their Miranda rights. Brown's veto message states that numerous crimes are solved through questioning and that a fuller understanding of the legislation's ramifications are needed. The governor pledged to work with proponents and law enforcement in order to craft reforms that balance public safety and constitutional safeguards.

Economic Justice

After a long and tumultuous effort, the prohibition on families enrolled in CalWORKS assistance (California's version of the Temporary Assistance for Needy Families program) from receiving

additional benefits upon the birth of a newborn has finally ended. The racially tinged maximum family grant prohibition on additional assistance for newborns was enacted in the 1990s. The now-discredited assumption was that increases in benefits would encourage women to have more children in order to increase their aid payments. In reality, the increase of \$133 per month does not even begin to cover a child's basic needs, but the prohibition puts at-risk children at even greater risk. Approximately 133,000 children were affected by the prohibition, which requires families receiving meager benefits to stretch them even further with a new baby.

In 2015, Senator Holly Mitchell carried **SB 23** to eliminate the prohibition; however, the legislation was held in the Assembly following signals that Gov. Brown was considering a budgetary fix. Alas, we were disappointed when Gov. Brown's January budget proposal did not include funding for ending the maximum family grant. But Senate President pro Tem Kevin De Leon (D-Los Angeles) and Assembly Speaker Anthony Rendon (D-Paramount) made it a budget priority and prevailed in negotiations with the administration. FCLCA helped organize an interfaith coalition that included the National Council of Jewish Women, the California Catholic Conference, Church Impact, the Lutheran Office of Public Policy and the Religious Action Center of Reform Judaism, to lobby legislators and Gov. Brown to end the prohibition.

Landmark legislation to phase in overtime pay and create fairer working conditions for farmworkers was signed into law by Gov. Brown. **AB 1066**, by Lorena Gonzalez (D-San Diego), phases in overtime pay for agricultural workers over a four-year period. Few occupations are as demanding as agricultural work. Since 1941, California has exempted agricultural workers from the overtime requirements of the Fair Labor Standards Act. California's 825,000 agricultural workers, who toil under very difficult working conditions, are not eligible for overtime pay. The bill also contains a provision that allows the governor to temporarily suspend the overtime phase-in during an economic downturn.

AB 1066 presented one of the more contentious issues that split pro-labor Democrats and pro-business Democrats, who along with Republicans had narrowly blocked a previous bill, **AB 2757**,

on the Assembly Floor. Both bills were opposed by the California Farm Bureau, the Western Growers Association and other agribusiness interests who argued that paying overtime would make California agricultural products less competitive globally and would result in workers having their hours reduced. Following a huge grassroots push and with support from Speaker Rendon, five Democrats and one Republican crossed over to support AB 1066 and send the bill to the governor.

SB 3, by Mark Leno, gradually phases in increases to California's minimum wage to \$15 per hour by 2022 and also allows the governor to temporarily suspend the phase-in in the event of an economic downturn.

Environmental Justice


Gov. Brown signed historical legislation to further reduce California's carbon footprint. **SB 32**, by Fran Pavley (D-Agoura Hills), charges the California Air Resources Board (ARB) with drafting policies to reduce the state's greenhouse gas emissions 40 percent below 1990 levels by 2030. In addition to mitigating the effects of climate change, which disproportionately impacts people in marginalized communities, SB 32 will improve air quality and will advance the development of green technologies, which is the fastest growing sector of the state's economy. The legislation had been criticized for granting too much authority to the ARB, which lacks transparency and whose officials are unelected and unaccountable to the public. SB 32 passed only after the Assembly adopted a companion bill, **AB 197**, by Eduardo Garcia (D-Coachella Valley). Garcia's bill – also signed by Gov. Brown – creates the new Joint Legislative Committee on Climate Change Policies and requires the ARB to report annually to the committee on greenhouse gas emissions, criteria pollutants and toxic contaminants and requires the Board to take into account the "social costs" of its policies. It also adds two legislators as nonvoting members of the ARB. Garcia's bill also requires the Board to prioritize direct emissions reductions over market solutions, such as California's Cap & Trade program.

AB 1550, by Jimmy Gomez (D-Los Angeles) was also signed into law. This bill guarantees that 25 percent of the funds raised by California's cap and trade program go to projects located directly in disadvantaged communities, which tend to be

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FCLCA *In Action* (continued from page 7)

located alongside industrial corridors and are often dumping grounds for industrial pollution. Disadvantaged communities are designated by the California Environmental Protection Agency (CalEPA) as communities disproportionately affected by environmental pollution and other hazards that can lead to negative health consequences in addition to being lower-income communities with high levels of unemployment. CalEPA estimates that 7.4 million people live in disadvantaged communities. Examples of the kinds of projects that are funded are home weatherization, urban forestry, clean transportation and solar power. AB 1550 further requires that another 10 per cent of the funds raised by cap and trade benefit the non-designated low-income communities that often border disadvantaged communities. Gov. Brown also signed **SB 1000**, by Connie Leyva (D-Chino), which requires local governments to include an environmental justice component when they update their General Plans in order to address the impacts of industrial pollution on disadvantaged communities within their jurisdictions. [FCLCA](#)

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The Friends Committee on Legislation of California (FCLCA) includes Friends and like-minded persons, a majority of whom are appointed by Monthly Meetings of the Religious Society of Friends in California.

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While we strive above all for correctness and probity, we are quick to recognize that to err is human. We therefore solicit and welcome comments and corrections from our readers.

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